

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

IN RE:	§	Chapter 11
	§	
TANGO TRANSPORT, LLC, ET AL.,	§	Case No. 16-40642-11
	§	
DEBTORS	§	Jointly Administered

**CHRISTOPHER J. MOSER, PLAN TRUSTEE’S, MOTION TO SELL
FOURTH PARCEL OF LAND IN MADISONVILLE KENTUCKY**

NO HEARING WILL BE CONDUCTED ON THIS MOTION/OBJECTION/APPLICATION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN TWENTY-ONE (21) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

TO THE HONORABLE BRENDA T. RHOADES, CHIEF U.S. BANKRUPTCY JUDGE:

Christopher J. Moser, Plan Trustee¹ (Plan Trustee) for Tango Transport, LLC, et. al (the “Debtors”), hereby files this *Motion to Sell Fourth Parcel of Land in Madisonville Kentucky* (the “Motion”), respectfully stating as follows:

JURISDICTION

1. This Court has jurisdiction over the Bankruptcy Case and the subject matter of this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of the Bankruptcy Case before this Court is proper under 28 U.S.C. §§ 1408 and 1409. Consideration of this Motion is a core

¹ Capitalized terms not defined herein shall have the same meaning as defined in the Amended Plan of Liquidation [Dkt. No. 290].

proceeding under 28 U.S.C. § 157(b)(2). The statutory predicates for the relief requested in the Motion are 11 U.S.C. § 363(b), (f), and (m), as well as Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

PROCEDURAL BACKGROUND

2. On April 6, 2016, (the “Petition Date”), Debtor, Tango Logistx, LLC, and Gorman Group, Inc., filed their voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101 *et. seq.* (the “Bankruptcy Code”), initiating their own respective above-styled bankruptcy cases. On April 7, 2016, Tango Truck Services, LLC, Tango Enterprises, Inc., Cango, Inc. and GMGO, Inc., filed their voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101 *et. seq.*, initiating the respective above-styled bankruptcy cases.

3. On April 15, 2016, the Debtors filed a *Motion for Order Directing Procedural Joint Administration of Affiliated Debtors Pursuant to Federal Rule of Bankruptcy Procedure 1015*, seeking entry of an order by this Court jointly administering their bankruptcy cases for procedural purposes only. The court entered the Order on May 11, 2016.

4. On December 21, 2016, this Court entered the *Order Confirming Amended Joint Plan of Liquidation* [R. Dkt. No. 363] (“Confirmation Order”), approving the Debtors’ *Amended Joint Plan of Liquidation* [R. Dkt. No. 290] (“Plan”).

5. On February 4, 2017, the Debtors filed a *Notice of Effective Date* [R. Dkt. No. 395].

6. Pursuant to the Confirmation Order, the Court approved the *Plan Trust Agreement* (“Trust Agreement”), which is attached to the Confirmation Order as attachment one.

RELIEF REQUESTED

7. Debtors owns a large parcel of land in at 2911 Anton Road, Madisonville Kentucky, 42431 (“Property”) free and clear of liens, claims and encumbrances.

8. The Property is designated as Lot #3, Lot #4, and the remainder of Lot #5, totaling 29.139 acres. A copy of an aerial survey is attached hereto as **Exhibit A**.² The offer to purchase the Property is \$241,000.00.

9. A true and correct copy of the Madisonville-Hopkins County Board of realtors Uniform Sales and Purchase Contract (“Contract”) is attached hereto as **Exhibit B**.

10. The purchasers are Steve Pleasant and Barrett McGaw, II (the “Purchasers”).

11. The court-appointed broker, Ken Gibson,³ has extensive knowledge of the market and has received several bids on the Property. The Purchasers have made the highest bid for Lot #3.

12. The Property is no longer necessary to the Plan Trustee.

13. As recognized by the Fifth Circuit, the Plan Trustee is entitled to use his business judgment in determining whether to sell assets outside of the ordinary course of business. *See Institutional Creditors of Cont'l Air Lines, Inc. v. Cont'l Air Lines, Inc. (In re Cont'l Air Lines Inc.)*, 780 F.2d 1223, 1226 (5th Cir. 1986). Here, selling the Property pursuant to the terms of the Contract is based upon the Plan Trustee’s sound business judgment the Plan Trustee believes that the proposed sale is the highest the value for the Property which is in the best interest of Plan Trust’s creditors.

14. The Plan Trustee requests the court authorize the Plan Trustee to undertake the following actions:

² A final survey with legal description setting corner pins is forthcoming and is projected to cost approximately \$2,500.00.

³ *See* Dkt. No. 139

- a. To close on the sale of the Property;
- b. To vest title in the Purchasers; and
- c. To pay reasonable and normal costs associated with the sale of the Property, including any fees to the broker.

15. Because the Property is of modest value, the Plan Trustee asks that the Court order that Federal Rule of Bankruptcy Procedure 6004(h) does not apply to any order granting the relief sought herein.

16. The Plan Trustee submits that the Purchasers are entitled to the protections afforded a good faith purchaser pursuant to Section 363(m) of the Bankruptcy Code.

PRAYER

WHEREFORE, the Plan Trustee requests that this Court enter an order (1) authorizing the sale of the Property under the terms and conditions described herein and (ii) granting such other and further relief as is just.

Dated: October 27, 2017.

Respectfully submitted,

/s/ Tristan Manthey

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CERTIFICATE OF SERVICE

I, Tristan Manthey counsel for the Plan Trustee, hereby certify that on October 27, 2017, I caused the foregoing Motion to be served on the parties listed below via the Court's ECF Filing System:

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/s/Tristan Manthey
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